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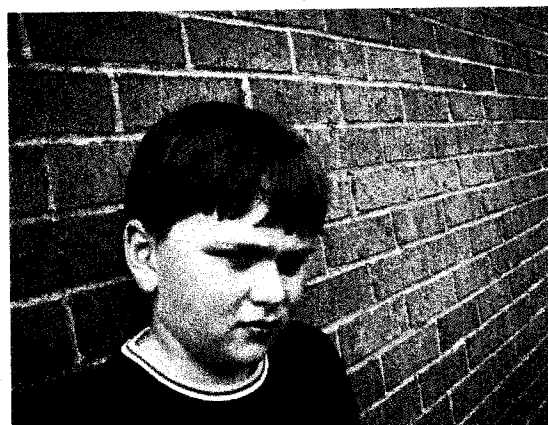
School Liability for Bullying: Central New York Injury Lawyer Explains.

April 1, 2010

Posted In: [Negligent Supervision](#) , [School Injuries](#)

By Michael Bersani on April 1, 2010 12:05 AM | [Permalink](#) | [Comments \(0\)](#)

In New York State, schools are legally responsible for preventing their students, at least while they are at school, from harming each other. This includes preventing school injuries caused by horseplay and avoidable accidents, but also intentional harm students might inflict on each other through assaults, harassment or bullying. School teachers and administrators cannot stand idly by while some students assault, harass, threaten, taunt or bully others. The school has a legal duty to take reasonable measures to make its school safe for its students. When it comes to bullying, if a school does not have rules in place to deal with such behavior, or if it fails to follow these rules, the student-victim can bring a lawsuit against the school for money damages under a legal theory of "negligent supervision".



School bullying was in the news a lot this week. The saddest story, and the one to catch all the national news, was about an Irish immigrant girl at a school in Massachusetts who was so relentlessly bullied that it drove her to commit suicide. The girl had been the recipient of a barrage of assaults, threats, and taunting for months. The local district attorney has charged 9 fellow students with crimes that led to the suicide, including stalking, criminal harassment and violation of civil rights.

There is plenty of blame to go around, though, and certainly the school deserves a lot of it. The school knew about the bullying. A psychologist says she consulted with school administrators months before the 15-year-old hanged herself. But they did nothing to stop the bullying. Watch for a lawsuit from the dead girl's parents --- I'll bet it's in the works, as well it should be.

Another news story about bullying this week hit closer to home. The Utica Observer reports that an upstate New York gay teenager, who was relentlessly bullied by classmates for being gay, settled his lawsuit against his school, the Mohawk Central School District, this week. The 15-year old claims that school officials did nothing to stop or prevent the bullies from taunting and harassing him daily simply because he was "different".

As part of the settlement, the district agreed to better protect students from harassment, including by paying for additional anti-bullying training for its staff. The school also agreed to a \$50,000 payment to the boy's family to reimburse them for counseling services.

As I always say, despite popular myths to the contrary, lawsuits are good. They change behavior for the better. Would this Mohawk Central School District have learned its lesson without this New York school liability lawsuit being filed against it? I think not.

Categories:

- [Negligent Supervision](#),
- [School Injuries](#)

Lance Melton

From: Debra Silk
Sent: Tuesday, February 01, 2011 9:07 AM
To: AGilkey@mt.gov; kdowns@mt.gov
Cc: Lance Melton
Subject: SB141 liability language

Ann and Kevin,

Thanks for meeting with us yesterday. After mulling this over, the following is language that we would like to see at the end of New Section 4:

(6) THIS ACT SHALL NOT BE CONSTRUED TO CREATE ANY NEW CAUSE OF ACTION AGAINST OR LIABILITY OF A SCHOOL DISTRICT BEYOND CAUSES OF ACTION AND THEORIES OF LIABILITY THAT EXISTED ON THE DAY PRIOR TO THE EFFECTIVE DATE OF THIS ACT. A SCHOOL DISTRICT SHALL NOT BE HELD LIABLE FOR BULLYING, HARASSMENT OR INTIMIDATION UNLESS IT IS SHOWN BY CLEAR AND CONVINCING EVIDENCE THAT THE SCHOOL DISTRICT HAD ACTUAL KNOWLEDGE OF THE BULLYING, HARASSMENT, OR INTIMIDATION, THAT THE BULLYING, HARASSMENT, OR INTIMIDATION WAS SO SEVERE, PERVASIVE AND OBJECTIVELY OFFENSIVE THAT IT EFFECTIVELY BARRED A PUPIL'S ACCESS TO AN EDUCATIONAL OPPORTUNITY OR BENEFIT, AND THE SCHOOL DISTRICT WAS DELIBERATELY INDIFFERENT TO THE BULLYING, HARASSMENT OR INTIMIDATION.

Thanks and let us know if you have any questions.

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